

## **FOURTH 15-DAY COMMENT PERIOD**

**5 September 2001**

### **PROPOSED MODIFICATIONS**

**NOTE: MODIFICATIONS FOR PUBLIC CONSIDERATION AND COMMENT ARE INDICATED IN DOUBLE STRIKEOUT AND DOUBLE UNDERLINE**

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**Title 8, Division 1, Chapter 3.2, Subchapter 2**

**Renumber Article 6, Amusement Ride Inspection Fee Schedule to Article 6.1**

**Renumber Existing Section 344.10 to 344.18.**

**Adopt New Article 6, Permanent Amusement Rides**

**Adopt Sections 344.5, 344.6, 344.7, 344.8, 344.9, 344.10, 344.11, 344.12, 344.13, 344.14, 344.15, 344.16, and 344.17.**

#### **344.5. Application.**

(a) This Article governs permanent amusement rides operated anywhere in the State of California.

(b) This Article does not apply to any of the following:

(1) Any playground operated by a school or local government if the playground is an incidental amenity and the operating entity is not primarily engaged in providing amusement, pleasure, thrills or excitement.

(2) Museums or other institutions principally devoted to the exhibition of products of agriculture, industry, education, science, religion or the arts.

(3) Skating rinks, arcades, laser or paint ball war games, indoor interactive arcade games, bowling alleys, miniature golf courses, mechanical bulls, inflatable rides, trampolines, ball crawls, exercise equipment, jet skis, paddle boats, air boats, helicopters, airplanes, parasails, hot air balloons (tethered or untethered,) theaters, amphitheaters, batting cages, stationary spring-mounted fixtures, rider-propelled merry-go-rounds, games, slide shows, live-animal rides, or live-animal shows.

(4) Permanent amusement rides operated at a private event that is not open to the general public and not subject to a separate admission fee.

(5) Amusement rides that are not permanent amusement rides.

NOTE: Authority cited: Labor Code sections 60.5, ~~7921, 7922,~~ 7923, and 7928.  
Reference: Labor Code sections 7920 through 7932.

#### **344.6. Definitions.**

For purposes of this Article, the following terms are defined as set forth herein:

(a) An "as-built document" is a document signed by a licensed engineer responsible for the construction of the permanent amusement ride stating that the ride has been constructed according to its final plans.

(b) A "California-licensed engineer" is a professional engineer with a certificate of registration issued by the California Board of Professional Engineers and Land Surveyors.

(c) A "licensed engineer" is a California-licensed engineer or a professional engineer with equivalent licensing by another state.

(d) A "major modification" is any change in the structure or operation of a permanent amusement ride that materially alters either the performance of the ride or any safety-related system of the ride. For the purposes of this definition, the disassembly and relocation of a ride is considered to be a major modification of the ride.

~~(e) "Medical service other than ordinary first aid" means examination, diagnostic testing, treatment or observation beyond that which occurs at the location of the accident, when provided by or under the supervision of a physician licensed to practice medicine in California or in any other State, in response to a serious medical concern that is related directly to the accident.~~

~~(f)~~ (e) A "new permanent amusement ride" is a permanent amusement ride that is placed in operation and opened to the public for the first time on or after the date this Article takes effect.

~~(g)~~ (f) An "operational inspection" is an inspection that consists of inspecting the operation of the permanent amusement ride, including its safety-related systems and procedures, and reviewing any other specific information that is substantially related to the safe operation of the ride.

~~(h)~~ (g) An "owner" or "operator" is a person or entity who owns or controls or has the duty to control the operation of a permanent amusement ride. The terms include the State and every political subdivision of the State, including every state agency, and each county, city, district, and all the public and quasi-public corporations and public agencies therein.

~~(h)~~ (h) A "permanent amusement ride" is a mechanical device, aquatic device, or combination of devices of a permanent nature that carries or conveys passengers along, around, or over a fixed or restricted course for the purpose of giving its passengers amusement, pleasure, thrills, or excitement. "Permanent amusement ride" includes bungee-jumping services, but does not include dry slides, playground equipment, coin-operated devices, conveyances that operate directly on the ground or on a surface of pavement or a surface directly on the ground, or aerial passenger tramways as defined by Labor Code section 7340(a). For the purposes of this definition, the phrase "of a permanent nature" means remaining at a single location for longer than 180 days.

~~(i)~~ (i) A "qualified safety inspector," or "QSI," is an individual certified by the Division pursuant to section 344.10. A QSI may be a safety inspector employed by the owner or operator of a permanent amusement ride, an employee or agent of the insurance underwriter or insurance broker of a permanent amusement ride, an employee or agent of the manufacturer of a permanent amusement ride, an employee of the Division of Occupational Safety and Health, or an independent consultant or contractor.

~~(j)~~ (j) "Safety-Related Systems and Procedures" are systems and procedures that materially affect safety or are designed or intended to increase the safety of a permanent amusement ride, including, but not limited to:

- (1) Ride-control devices, including safety devices;
- (2) Speed-limiting devices;
- (3) Brakes;
- (4) Passenger-carrying devices, including restraint systems;
- (5) Mechanical systems that materially affect the safe operation of the ride;
- (6) Ride electrical or electronic systems, including process-control equipment that are designed or intended to ensure safe operation of the ride;
- (7) Daily pre-operational safety-related tests;

(8) Owner or operator safety-related maintenance, inspection and operational activities;

(9) Emergency procedures related to the operation of the ride, including, but not limited to, cessation of operation, evacuation procedures, ingress and egress controls, location of communication devices, and summoning of medical or emergency assistance; and

(10) Signage.

~~(j)~~ (k) A "structural inspection" is an inspection of a permanent amusement ride, which includes examination of the following structural attributes:

(1) Structural supports and foundations including wind and seismic integrity;

(2) Structural bracing; and

(3) Ride track elements, if any.

NOTE: Authority cited: Labor Code sections 60.5, ~~7921, 7922~~, 7923, and 7928.  
Reference: Labor Code sections 7920 through 7932.

#### **344.7 Certificate of Compliance.**

(a) On or before the ~~360<sup>th</sup>~~ 365<sup>th</sup> day following the date this Article takes effect, the owner or operator of a permanent amusement ride who does not elect to have a Division QSI perform the annual inspection required by section 344.8(c) shall submit to the Division a Certificate of Compliance together with the fee required by section 344.16(c). A new Certificate of Compliance shall be submitted annually and shall become due on each anniversary date of the first submission, unless the owner or operator elects in compliance with section 344.8(c)(2) to have a Division QSI conduct the annual inspection.

(b) The Certificate of Compliance shall include, ~~but not be limited to,~~ each of the following items:

(1) The legal name and address of the owner and his, her or its representative, if any, and the primary place of business of the owner;

(2) The legal name and address of the operator, if different from those of the owner;

(3) The name and a description of the permanent amusement ride, the address at which it is located, the name(s) of the manufacturer(s) of the ride,

and if provided by the manufacturer(s), the serial number and model number of the permanent amusement ride; and

(4) A written declaration stating that, within the preceding 12-month period, the permanent amusement ride was inspected by a QSI, together with all of the individuals necessary to competently review the ride's safety-related systems and structural attributes, and that the permanent amusement ride is in conformance with the requirements of Chapter Subchapter 6.2 of Chapter 4 of Division 1 (starting at section 3195.1) of this Title. The written declaration shall be executed by a QSI under penalty of perjury.

Note: The requirement that the written declaration state that the permanent amusement ride is in conformance with the requirements of Chapter Subchapter 6.2 of Chapter 4 of Division 1 (starting at section 3195.1) of this Title shall not take effect until 180 days after the date that Chapter Subchapter 6.2 has been adopted and takes effect.

(c) The owner or operator of multiple permanent amusement rides at one address may submit a single Certificate of Compliance that provides the information required in section 344.7(b) for all of the permanent amusement rides located at that address.

(d) Upon receipt of the Certificate of Compliance, the Division shall notify the owner or operator in writing, within five (5) working business days, that the Certificate of Compliance has been received and whether it meets the requirements of this Article. If a Certificate of Compliance is determined to be deficient, the Division's written notification shall enumerate the deficiencies and the information required to correct such deficiencies.

(e) All current written notifications issued by the Division pursuant to subsection (d) shall be available for public inspection during normal business hours at a readily accessible location at the site where the permanent amusement ride is located. Such documents may either be posted at the entrance to each permanent amusement ride, or at the election of the owner or operator, located at a readily accessible central location. If the owner or operator chooses not to maintain the documents at the entrance to a ride, a sign shall be posted at the entrance to the ride notifying the public of the location where the documents can be viewed.

(f) No person shall operate a permanent amusement ride unless the permanent amusement ride complies with all applicable requirements of this Article and Chapter Subchapter 6.2 of Chapter 4 of Division 1 (starting at section 3195.1) of this Title.

Note: The requirement that the amusement ride comply with all applicable requirements of ~~Chapter Subchapter 2 of this Title~~ shall not take effect until and unless ~~Chapter Subchapter 2~~ is adopted and takes effect.

(g) Starting on the ~~360th~~ 365th day following the date this Article takes effect, an owner or operator who has not elected in compliance with sections 344.8(c)(1) and (c)(2) to have the Division conduct the annual inspection required by section 344.8(c) shall not operate an amusement ride with passengers unless a valid Certificate of Compliance applicable to the ride has been submitted to, and accepted by, the Division as required by section 344.7.

Exception: No 1: If the Division fails to notify the owner or operator within 5 working business days of receipt of a Certificate of Compliance that the Certificate has been received and whether it meets the requirements of this Article as required by subsection (d), the owner or operator may continue to operate the ride, unless and until the Division notifies the owner or operator that the Certificate is deficient.

Exception No. 2: If a tardy request for a Division-conducted annual inspection is made, and the Division can accommodate the request, the ride may be operated after the inspection has been initiated and the Division informs the owner or operator that the ride may be operated.

~~Note: For those who elect to have the Division conduct the annual inspection, the deadline for submitting the written request to the Division~~

NOTE: Authority cited: Labor Code sections 60.5, ~~7921~~, 7923, and 7928.  
Reference: Labor Code sections 7920 through 7932.

### **344.8 Inspections.**

(a) Initial Division Inspection of New Permanent Amusement Rides. A Division QSI shall conduct an operational inspection of each new permanent amusement ride before the ride is placed in operation and opened to the public to evaluate the safety of the ride.

(1) The owner or operator of the ride shall notify the Division, in writing, at least 30 days prior to opening the ride to the public.

(2) The notification shall state the location of the ride, the date the owner or operator intends to commence public operation, and the earliest date the ride will be ready for inspection by the Division.

(3) If the Division receives notification in compliance with section 344.8(a)(1), the Division shall initiate the inspection before the date indicated by the

operator for commencement of public operation of the ride, and shall make a reasonable effort to complete the inspection prior to that date. If the Division is unable to complete the inspection within 30 days of receiving notification by the owner or operator, and the lack of completion of the inspection is not attributable to the actions or inaction of the owner or operator, the ride may be opened to the public until the inspection is completed, unless there is a substantial reason to question the safety of the ride.

(4) The ride owner or operator shall ensure that a representative is present to operate the ride and perform the tests requested by the Division QSI as necessary to complete the operational inspection.

(5) In conjunction with the inspection, the owner or operator of the ride shall make available to the Division the following:

(A) A written certification from a licensed engineer that the ride meets the all applicable design requirements set forth in ~~Chapter~~ Subchapter 6.2 of Chapter 4 of Division 1 (starting at section 3195.1) of this Title;

Note: This requirement shall not take effect unless and until Subchapter 6.2 has been adopted and takes effect.

(B) An as-built document; and

(C) A copy of the certificate of occupancy issued by the local building authority, if required.

(b) Division Inspection of Major Modifications. After any major modification has been made to a permanent amusement ride, a Division QSI shall conduct an operational inspection of the ride before the ride is reopened to the public.

(1) The owner or operator of the ride shall provide the Division with at least 30 days advance written notice of the anticipated date of reopening the ride to the public following the major modification.

(2) The advance written notice shall state the date the owner or operator intends to resume public operation, and the earliest date the ride will be ready for Division inspection.

(3) If the Division receives notification in compliance with section 344.8(b)(1), the Division shall initiate the inspection before the date indicated by the operator for reopening of the ride to the public, and shall make a reasonable effort to complete the inspection prior to that date. If the Division is unable to complete the inspection within 30 days of receiving notification by the owner

or operator, and the lack of completion of the inspection is not attributable to the actions or inaction of the owner or operator, the ride may be opened to the public until the inspection is completed, unless there is a substantial reason to question the safety of the ride.

(4) In conjunction with the Division's major modification inspection, the owner or operator of a permanent amusement ride shall make available to the Division the following:

(A) A written certification from a licensed engineer that the ride as modified meets all applicable design requirements set forth in Chapter Subchapter 6.2 of Chapter 4 of Division 1 (starting at section 3195.1) of this Title;

Note: This requirement shall not take effect unless and until Chapter Subchapter 6.2 has been adopted and takes effect.

(B) An as-built document; and

(C) A copy of the certificate of occupancy issued by the local building authority, if the local building authority has such a requirement.

(c) Annual QSI Inspection. An annual QSI inspection shall be conducted of each permanent amusement ride at least once each year by either a QSI selected by the owner/operator or by a Division QSI, at the election of the owner or operator.

(1) If the owner or operator elects to have a Division QSI conduct the Annual QSI Inspection, the owner or operator shall submit a written request that the Division conduct the inspection. ~~The request~~ (2) A written request that an annual QSI inspection be conducted by the Division shall be submitted to the Division no later than 60 days prior to the date the Certificate of Compliance becomes due.

(2) Whenever an owner or operator elects to have a Division QSI conduct an annual inspection, the date of completion of the Division's inspection shall become the anniversary date by which the owner or operator's Certificate of Compliance becomes due the following year if a request for a Division-conducted QSI inspection is not made pursuant to subsection (c)(1).

(3) The annual QSI inspection shall include both a structural inspection and an operational inspection.

(4) A permanent amusement ride found to be unsafe as the result of an annual QSI Inspection shall be closed to the public and shall not be reopened

to the public until all necessary repairs and modifications have been completed and certified as completed by a QSI.

(d) Annual Division Records Audit and Inspection.

(1) Starting on the 390<sup>th</sup> day following the date this Article takes effect, a Division QSI shall annually audit the records pertaining to each permanent amusement ride, including, but not limited to, records of accidents, records of employee training, and records of maintenance, repair, and inspection of the ride.

(2) A Division QSI shall conduct an operational inspection in conjunction with the annual records audit. The operational inspection shall be conducted in two phases, as follows:

(A) One phase shall consist of an unannounced inspection during business hours to observe the normal operation of the ride, with passengers.

(B) The other phase shall consist of a pre-announced inspection to be conducted without passengers present, to conduct all other aspects of the operational inspection.

(e) Exception to subsections (a), (b), (c), and (d): The following provisions shall apply to each permanent amusement ride that is located within a county or other political subdivision of the State that, as of April 1, 1998, has adopted the provisions of Chapter 66 (commencing with section 6601.1) of the 1994 Uniform Building Code providing for the routine inspection of permanent amusement rides by counties and other political subdivisions of the State, provided that the Division determines that these inspections meet or exceed the inspection standards set forth in this Article:

(1) The ride shall not be subject to the inspection or records audit requirements of subsections (a), (b), or (d), to the extent that the county or other political subdivision provides inspections according to the same criteria as those specified in each of these subsections.

(2) The ride shall be subject to the requirements of subsection (c). However, the employer may elect to have the county or other political subdivision conduct the Annual QSI Inspection on the same basis that it may elect to have the Division conduct the Annual QSI Inspection, provided that the county or other political subdivision provides inspections according to the same criteria as those specified in subsection (c) and the owner or operator complies with all applicable deadlines for making written requests.

(f) Discretionary Division Inspections. A Division QSI may conduct an inspection to determine the safety of a permanent amusement ride, in a manner consistent with any reasonable safety concern raised by the information available to the Division, whenever the Division:

- (1) Receives notification, or otherwise learns, of an accident involving the permanent amusement ride required to be reported pursuant to section 344.15;
- (2) Determines that a fraudulent Certificate of Compliance for the permanent amusement ride was submitted;
- (3) Determines, based on factors such as ride cycles or number of riders, that a permanent amusement ride has a disproportionately-high incidence of accidents when compared to other rides of similar type and design in the State of California; or
- (4) Receives a complaint or otherwise becomes aware of information, when the complaint or information reasonably appears to be reliable and credible, that one of the safety-related systems or structural components of a ride is unsafe, or that a particular practice associated with a ride is unsafe.

(g) The Division shall cause the least possible disruption to the normal operation of a permanent amusement ride consistent with the effective completion of an inspection.

NOTE: Authority cited: Labor Code sections 60.5, ~~7921~~, 7923, ~~7924~~, 7928, and 7932. Reference: Labor Code sections 7920 through 7932.

#### **344.9 Order Prohibiting Operation.**

(a) If, after inspection by a Division QSI, the Division determines that a permanent amusement ride, or any part thereof, presents an imminent hazard or is otherwise unsafe for patrons, the Division may prohibit the operation of the ride, or any affected part thereof. The Division shall frame the scope of the prohibition with the narrowest scope reasonably necessary to ensure the protection of the public.

Exception No. (1) The Division shall not issue an Order Prohibiting Operation if the hazardous or unsafe condition can be corrected immediately and the operator, after being informed of the condition by the Division, immediately abates the hazardous or unsafe condition.

Exception No. (2) If an unsafe condition does not constitute an imminent hazard to patrons, the Division shall, prior to issuing an Order Prohibiting Operation, engage in an informal consultation with the owner or operator in

an effort to resolve any factual questions or gather information relevant to determining whether the public operation of the amusement ride should be prohibited.

~~(a)~~ (b) The Division shall notify the owner or operator in writing of the grounds for prohibition of operation and of the conditions in need of correction at the time it issues the Order Prohibiting Operation.

~~(b)~~ (c) Operation of the permanent amusement ride shall not be reopened to the public until the conditions cited in the Order Prohibiting Operation have been corrected and approved by an authorized Division representative.

~~(c)~~ (d) The owner or operator may appeal any Order Prohibiting Operation. The Division shall conduct appeal proceedings in accordance with Labor Code Section 6327.

NOTE: Authority cited: Labor Code sections 60.5, ~~7924~~, 7923, ~~7925~~, and 7928.  
Reference: Labor Code sections 7920 through 7932.

#### **344.10. Certification of a QSI.**

(a) No person shall perform the services of a QSI for permanent amusement rides unless he or she possesses a current, valid QSI Certificate issued by the Division.

(b) An application for certification as a QSI shall be made to the Division on a form prescribed by the Division, which shall require the applicant to provide information limited to his or her name, social security number, mailing address, daytime telephone number, two passport photographs, and information required to satisfy subsection (c).

(1) All statements on the application shall be made under penalty of perjury.

(2) Within 20 business days of receipt of an application for certification as a QSI, the division shall notify the applicant in writing that the application is complete and accepted for filing or incomplete and what additional evidence, documentation, or information is necessary to complete the application. An application shall be considered to be complete once all evidence, documentation, and information required by subsection (c)(1) or (c)(2) have been submitted.

(3) Within 20 business days of receipt of a completed application, the Division shall notify the applicant in writing of its decision to approve or disapprove the application. If the application is made pursuant to subsection (c)(2), the Division shall, upon approval of the application, allow the applicant to sit for an examination pursuant to subsection (c)(2)(D).

(4) If the applicant has qualified for certification under subsection (c)(1), the Division shall issue a QSI Certificate to the applicant upon approval of the application. If the applicant has qualified for certification under subsection ~~(C)(2)~~ (c)(2), the Division shall issue a QSI Certificate to the applicant upon completion of the QSI Examination with a score of at least 80% as required by subsection (c)(2)(D).

(c) To be eligible for certification as a QSI, an applicant shall either qualify as a licensed engineer or as a non-engineer.

(1) To qualify as a licensed engineer, the applicant shall do all of the following:

(A) Provide satisfactory evidence that the applicant is a licensed engineer and has completed at least two years of experience in the amusement ride field, consisting of at least one year of actual inspection of amusement rides for a manufacturer, government agency, amusement park, carnival or insurance underwriter, and an additional year of practicing any combination of amusement ride inspection, design, fabrication, installation, maintenance, testing, repair, or operation.

(B) Provide any other information reasonably requested by the Division.

(2) To qualify as a non-engineer, the applicant shall ~~Do~~ do all of the following:

(A) Provide satisfactory evidence of completing a minimum of five years of experience in the amusement ride field, at least ~~four~~ two years of which consisted of actual inspection of amusement rides for a manufacturer, government agency, amusement park, carnival or insurance underwriter. The remaining experience may consist of any combination of amusement ride inspection, design, fabrication, installation, maintenance, testing, repair, or operation.

(B) Provide any other information reasonably requested by the Division.

(C) Produce a valid certificate of completion from ~~a an~~ QSI Training Program approved ~~QSI Certification course by the Division pursuant to section 344.11, evidencing at least 80 hours of formal education in amusement ride safety~~ the applicant's successful completion of 80-hour QSI certification training. For the purposes of this subsection, the training must have been completed within the past five years as of the time the application is made, but must not have been received earlier than January 1, 1999.

Note: A certificate of completion from an approved QSI Training Program which is based on ~~includes course work taken training~~

received prior to the date this Article takes effect is acceptable if the course work has been retroactively approved pursuant to section 344.11(f).

Exception: An applicant may substitute a certificate of completion from an acceptable NDT training course for up to 16 hours of amusement ride safety education. apply up to 40 hours of successfully completed nondestructive testing (NDT) training toward completion of the requirement for 80 hours of QSI certification training from an approved QSI Training Program. in amusement ride safety education. For the purposes of this subsection exception, an acceptable NDT training course is one offered by an instructor certified by the American Society for Nondestructive Testing, Inc. ("ASNT") Nondestructive Training Level III, and covering the test method body of knowledge as described in the ASNT Recommended Practice No. SNT-TC-1A, 1996. The applicant shall provide all documentation or evidence reasonably necessary to demonstrate that the NDT training sought to be applied toward the 80-hour requirement meets these criteria. Other NDT courses shall be considered to be acceptable if the QSI applicant can demonstrate that the course instructor and content are equally effective in imparting skills and subject matter to attendees that are necessary for competent inspection of permanent amusement rides. No course shall be considered acceptable if the Division reasonably determines that the subject matter is insufficiently related to the inspection of permanent amusement rides to qualify as substitutable NDT training, or if the Division reasonably determines that the manner of instruction is insufficiently managed or monitored to be considered bona fide training.

(D) Achieve a score of at least 80% on a written examination (QSI Examination) pertaining to the subjects addressed in this Article and ~~Chapter~~ Subchapter 6.2 of Chapter 4 of Division 1 (starting at section 3195.1) of this Title and subject matter applicable to the safe operation of permanent amusement rides. The examination shall be given during the Division's normal ~~working business~~ hours in Sacramento or Anaheim at a time convenient to the applicant.

Note: The examination shall not require knowledge of any requirements in ~~Chapter~~ Subchapter 6.2 unless and until ~~Chapter~~ Subchapter 6.2 has been adopted and takes effect.

(d) A QSI Certificate shall be valid for a period of two years from the date of issuance.

(e) Application for renewal of a QSI Certificate shall be made to the Division on a form prescribed by the Division, which shall require the certificate holder to provide his or her name, and daytime telephone number, ~~and any other information which the Division may reasonably request.~~

(1) All statements on the renewal application shall be made under penalty of perjury.

(2) Each application shall be accompanied by the application fee fixed by section 344.16(b).

(3) The ~~application applicant~~ shall ~~also include~~ provide evidence of the applicant having completed, during the previous biennial renewal cycle, 30 hours of training from the continuing education component of a QSI Training Program approved pursuant to section 344.11(c). This training which shall include inservice industry or manufacturer updates and seminars, ~~from an approved school during the previous biennial renewal cycle.~~

(4) The applicant shall provide any additional information reasonably requested by the Division.

(5) Within 10 business days of receipt of an application for renewal of a QSI certificate, the Division shall notify the applicant in writing either that the application is complete and accepted for filing or deficient and what specific information is required to complete the application. Within 10 business days of receipt of a completed application for certification as a QSI or an application for renewal of a QSI certificate, the Division shall notify the applicant of its decision to approve or disapprove the application.

(f) The Division shall determine whether the applicant meets the criteria necessary for certification or renewal of certification pursuant to this Article and Part 8.1 of Division 5 of the Labor Code, and shall approve or disapprove the application for certification or renewal of certification accordingly.

(g) The Division may revoke or suspend the certification of a QSI, upon determining that the holder:

(1) Has submitted a fraudulent inspection report to the Division or to the owner or operator of a permanent amusement ride; or

(2) Has not performed competently as a QSI.

NOTE: Authority cited: Labor Code sections 60.5, ~~7921~~, 7923, ~~7924~~, and 7928. Reference: Labor Code sections 7920 through 7932.

### **344.11. Approval of QSI Certification Course Providers Training Programs.**

~~(a) To qualify for approval, a QSI certification course provider shall demonstrate that it will~~ A school or training provider may apply to the Division for approval of a QSI Training Program (referred to in this section as "Program") by submitting the following information:

(1) The name(s) of the training courses offered by the Program.

(2) The name, title, business address, and phone number of the person whom the Division will contact regarding Program approval matters, a statement certifying that the information provided with the application is true and correct to the best of the applicant's knowledge, and the name title, business address, and phone number of the person signing the declaration if different from the person who will be the Division's contact.

(3) Materials describing the subject matter and hours of instruction of each course required by the Program, with an explanation as to which courses are to apply toward:

(A) The QSI certification training requirements of section 344.10(c)(2)(C);

(B) QSI certification training requirements based on completion of up to 40 hours of NDT training as allowed by the exception to section 344.10(c)(2)(C); and

(C) The QSI continuing education requirements, ~~meeting the requirements~~ of section 344.10(e)(3).

Note: A school or training provider may offer any or all of the above three options.

(4) The name(s) and qualifications of the instructor(s) of the Program.

(5) Any other information reasonably requested by the Division.

#### (b) Processing of Application.

(1) Within 20 business days of receipt of an application for approval, the Division shall inform the applicant in writing whether the submitted application information is complete or additional information needs to be submitted.

(2) Within 45 business days of receipt of a completed application for approval, the Division shall inform the applicant that the Program is approved or inform the applicant that the application for approval is denied, specifying the reasons for denial.

(c) Criteria for Approval. Upon receiving complete application materials from the provider, the Division shall determine whether the applicant meets the criteria necessary for approval pursuant to this Article and the Permanent Amusement Ride Safety Inspection Program, Labor Code section 7920 et seq., and shall approve or disapprove the application accordingly. The approval shall specifying each component of QSI Training, as described in section 344.11(a)(3), to which the approval applies. To qualify for approval, the applicant shall demonstrate that its Program will meet all of the following requirements:

(1) Ensure that the instructor for each course required by the Program is experienced in the subject matter of the course.

(2) Ensure that the course content is current and will be kept current.

(3) Require ~~course~~ Program participants to attend each course required by the Program for its full duration so that the applicable requirements for hours of instruction, as described by sections 344.10(c)(2)(B C) and 344.10(e)(3), are met.

~~(4) Ensure that course content and number of hours of for each course meet the requirements set forth in section 344.10 for QSI certification;~~

~~(5)~~ (4) Utilize a reliable testing method to determine whether the course participants have learned the subject matter presented by the course.

~~(6)~~ (5) Provide a certificate of completion to all successful participants at the completion of ~~each course~~ the Program. ;and

~~(7) Provide~~ (6) Ensure that the courses required by the Program provide classroom training related to the inspection, design, maintenance, testing, inspection and operation of permanent amusement rides and applicable provisions of Title 8 of this Code, ensure that the subject matter of the training is current and will be kept current, and ensure that the overall content of courses required by the Program meets the intent of the Permanent Amusement Ride Safety Inspection Program, Labor Code section 7920, et seq., that QSIs receive training allowing them to perform competent and effective inspections of permanent amusement rides for the purpose of ensuring the safety of patrons.

~~(b) A provider seeking approval shall submit the following information to the Division prior to commencing instruction:~~

~~(1) An agenda and summary of content for each course offered;~~

~~(2) Curriculum vitae for each of its instructors; and~~

~~(3) Dates, times, and locations for each course offered.~~

~~(c) Upon receiving complete application materials from the provider, the Division shall determine whether the provider meets the criteria necessary for approval pursuant to this Article and Part 8.1 of Division 5 of the Labor Code, and shall approve or disapprove the application accordingly.~~

(d) To maintain QSI Training Program approval, ~~providers a school or training~~ provider shall promptly notify the Division in writing each time the provider makes a substantive change to any of the information required pursuant to subsection (a).

(e) The Division may suspend or revoke the approval of a ~~provider~~ QSI Training Program upon determining that the ~~provider~~ Program has substantially failed to comply with approval requirements.

(f) The Division may grant retroactive approval of training provided ~~a certification course taken after January 1, 1999 but before this Article takes effect, if the school or training provider that provided the training demonstrates that the course training previously provided during that period meets~~ met the QSI Training Program approval criteria of this section.

NOTE: Authority cited: Labor Code sections 60.5, ~~7924~~, 7923, and 7928.

Reference: Labor Code sections 7920 through 7932.

### **344.12. Suspension and Revocation Procedures.**

All suspension and revocation proceedings conducted by the Division shall be initiated by the provision of written notice of the Division's intent to conduct a hearing to determine whether a certification or approval will be suspended or revoked.

(a) The written notice shall be served at least 48 hours in advance of the scheduled hearing date.

(b) Service shall be by personal service or certified mail to the address shown on the application for certification or approval, or to any other address known to the Division and reasonably believed to be the current address of the certificate holder or course provider.

(c) The written notice shall specify the time, date, and location of the hearing, and the reasons for the action proposed by the Division.

(d) At the hearing the Division shall have the burden of establishing good cause for the action taken by it. Good cause shall be deemed to exist if the Division establishes that the holder of a certification has substantially failed to comply with the requirements for certification pursuant to section 344.10(g), or that the holder of an approval has substantially failed to comply with the requirements of approval pursuant to section 344.11(e).

NOTE: Authority cited: Labor Code sections 60.5, 7923, and 7928. Reference: Labor Code sections 7920 through 7932.

### **344.13. Appeals to the Director.**

(a) The following may be appealed to the Director:

(1) Suspensions and revocations by the Division.

(2) Denials of applications for QSI certification or course provider QSI Certification Training Program approvals or ~~may also be appealed to the Director; and.~~

(3) Any final decision after hearing by the Division to uphold an Order Prohibiting Operation.

(b) All appeals to the Director shall be in writing and shall be served within 5 business days of receipt of the notification of the Division's decision resulting in a denial, suspension, or revocation.

(c) The Director or authorized representative shall schedule a hearing to be held within 5 business days of receipt of an appeal. At the hearing, the ~~applicant~~ appellant shall have the burden of establishing that the Division's decision is in error.

(d) ~~Following the hearing~~ Within 3 business days of completing the hearing, the Director shall issue a decision. The Director's decision shall be final except for any rehearing or judicial review provided for by law.

NOTE: Authority cited: Labor Code sections 60.5, 7923, and 7928. Reference: Labor Code sections 7920 through 7932.

### **344.14. Insurance Requirements.**

A person or entity may operate a permanent amusement ride only if, at the time of operation, he, she, or it:

(a) Has obtained a valid insurance policy in an amount not less than one million dollars (\$1,000,000) per occurrence, and;

(1) Has submitted to the Division a copy of the policy;

(2) Has clearly identified in the policy the permanent amusement rides included and excluded; and

(3) Does not operate permanent amusement rides for which coverage is not provided; or

(b) Has obtained a bond in an amount not less than one million dollars (\$1,000,000), except that the aggregate liability of the surety under that bond shall not exceed the face amount of the bond. A copy of the bond shall be submitted to the Division; or

(c) Qualifies as self-insured. This Qualification as self-insured shall be demonstrated by providing a letter to the Division attesting that the owner has total assets of at least ten million dollars (\$10,000,000), and that the owner's total assets exceed the owner's total liabilities by either a minimum of two million dollars or a ratio of at least ten to one. All statements in the attestation letter to the Division shall be made under penalty of perjury.

Exception: State and local governmental entities shall be deemed to qualify as self-insured.

NOTE: Authority cited: Labor Code sections 60.5, 7923, and 7926, and 7928. Reference: Labor Code sections 7920 through 7932.

### **344.15. Accident Response and Notification.**

~~Each owner or operator of a permanent amusement ride shall report or cause to be reported immediately to the by telephone each known accident where maintenance, operation, or use of a permanent amusement ride results in the death of a patron, or results in a patron injury requiring medical service other than ordinary first aid. For the purposes of this section, an accident is "known" if the owner or operator:~~

~~(1) Witnesses the injury, and the injury witnessed reasonably appears to require medical service other than ordinary first aid; or~~

~~(2) Receives notice from any source reasonably appearing to be reliable and credible, that the maintenance, operation, or use of a permanent amusement ride has resulted in the:~~

~~(A) Death of a patron; or~~

~~(B) Injury of a patron, if the injury is one requiring medical service other than ordinary first aid.~~

Each operator of a permanent amusement ride shall report or cause to be reported to the Division's Anaheim or Sacramento Amusement Ride Section Office immediately by telephone each known accident where maintenance, operation, or use of the permanent amusement ride results in a death or serious injury to any person unless the injury does not require medical service other than ordinary first aid.

(b) Preservation of Accident Scene.

~~(1) Upon the occurrence of a known accident where the failure, malfunction, or operation of a permanent amusement ride results in the death of a patron, or results in a patron injury requiring medical service other than ordinary first aid, the equipment or conditions that caused the accident shall be preserved for a reasonable length of time for the purpose of a possible investigation by the Division.~~

~~Exception: This requirement does not apply if the owner or operator does not receive timely notice of the injury so that a determination can reasonably be made as to what equipment or conditions caused the accident.~~

(1) If a death or serious injury results from the failure, malfunction, or operation of a permanent amusement ride, the equipment or conditions that caused the accident shall be preserved for the purpose of an investigation by the division.

(2) Upon receiving a report of an accident from an owner or operator, the Division shall make a determination as to whether preservation is necessary and inform the owner or operator of its determination.

(A) If the Division determines that preservation is necessary, the Division shall make a reasonable effort to initiate the inspection within 24 hours of receipt of the report from the owner or operator.

(B) Upon initiating the inspection, the Division shall provide the owner or operator with an instruction as to how long the equipment or conditions shall continue to be preserved.

(c) Notification of the Division by Emergency Responders.

Whenever a state, county, or local fire or police agency is called to an accident involving a permanent amusement ride covered by this Article where the death of a patron or a patron injury requiring medical service other than first aid has occurred, the Anaheim or Sacramento Amusement Ride Section Office of the Division shall be notified by telephone immediately by the responding agency.

NOTE: Authority cited: Labor Code sections 60.5, ~~7924~~, 7923, ~~7925~~, and 7928.  
Reference: Labor Code sections 7920 through 7932.

#### **344.16. Fee Schedule.**

(a) The application fee for a QSI Certificate shall be five hundred dollars (\$500.00).

(b) The fee for the biennial renewal of a QSI Certificate shall be one hundred and twenty five dollars (\$125.00).

(c) The fee for review of Certificates of Compliance and provision of related notifications shall be two hundred and fifty dollars (\$250.00).

(d) A fee of one hundred and twenty-five dollars (\$125.00) per hour, or fraction thereof, shall be charged for all work performed in connection with audits, inspections and investigations conducted pursuant to section 344.8.

NOTE: Authority cited: Labor Code sections 60.5, ~~7924~~, 7923, and 7928, and 7929. Reference: Labor Code sections 7920 through 7932.

#### **344.17. Confidentiality.**

The Division shall maintain the confidentiality of all documentation received pursuant to this Article to the extent that such documentation is protected by Labor Code Section 6322 or any other applicable provision of law.

NOTE: Authority cited: Labor Code sections 60.5, ~~7724~~, 7923 and 7928.  
Reference: Labor Code sections 6322 and 7920 through 7928.